

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
3                   AT CHARLESTON

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5        IN RE: C.R. BARD, INC., PELVIC      ) MDL NO.  
6        REPAIR SYSTEM PRODUCTS LIABILITY     ) 2:10-md-2187  
7        LITIGATION                                )  
8        )  
9        IN RE: AMERICAN MEDICAL SYSTEMS,     ) MDL NO.  
10      INC., PELVIC REPAIR SYSTEM             ) 2:12-md-2325  
11      PRODUCTS LIABILITY LITIGATION        )  
12      )  
13      IN RE: BOSTON SCIENTIFIC               ) MDL NO.  
14      CORPORATION, PELVIC REPAIR SYSTEM     ) 2:12-md-2326  
15      PRODUCTS LIABILITY LITIGATION        )  
16      )  
17      IN RE: ETHICON, INC., PELVIC          ) MDL NO.  
18      REPAIR SYSTEM PRODUCTS LIABILITY     ) 2:12-md-2327  
19      LITIGATION                                )  
20      )  
21      IN RE: COLOPLAST CORP., PELVIC,       ) MDL NO.  
22      REPAIR SYSTEM PRODUCTS LIABILITY     ) 2:12-md-2387  
23      LITIGATION                                )  
24      )  
25      IN RE: COOK MEDICAL, INC., PELVIC     ) MDL NO.  
1        REPAIR SYSTEM PRODUCTS LIABILITY     ) 2:13-md-2440  
2        LITIGATION                                )  
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1                   TRANSCRIPT OF STATUS CONFERENCE  
2                   BEFORE THE **HONORABLE JOSEPH R. GOODWIN**,  
3                   UNITED STATES DISTRICT JUDGE,  
4                   AND **CHERYL A. EIFERT**,  
5                   UNITED STATES MAGISTRATE JUDGE  
6                   WEDNESDAY, SEPTEMBER 14, 2016; 10:00 A.M.  
7                   CHARLESTON, WV

8                   Proceedings recorded by mechanical stenography,  
9                   transcript produced by computer.

10                   **Mary A. Schweinhagen, RMR, CRR**  
11                   Federal Official Court Reporter  
12                   300 Virginia Street, East  
13                   Charleston, WV 25301

14                   \* \* \* \* \*

15                   *Mary A. Schweinhagen, RDR, CRR (304) 347-3188*

1                           **A-P-P-E-A-R-A-N-C-E-S**  
2                           (Lead Counsel Only)

3                           **FOR THE PLAINTIFFS:**

4                           **HENRY G. GARRARD, III, ESQUIRE**  
5                           Blasingame, Burch, Garrard & Ashley  
6                           P.O. BOX 832  
7                           Athens, GA 30603

8                           **CLAYTON A. CLARK, ESQUIRE**  
9                           Clark, Love & Hutson  
10                          440 Louisiana Street, Suite 1600  
11                          Houston, TX 77002

12                          **BRYAN F. AYLSTOCK, ESQUIRE**  
13                          Aylstock, Witkin, Kreis & Overholtz  
14                          17 East Main Street, Suite 200  
15                          Pensacola, FL 32502

16                          **ROBERT L. SALIM, ESQUIRE**  
17                          Law Offices of Robert L. Salim  
18                          1901 Texas Street  
19                          Natchitoches, LA 71457

20                          **RILEY L. BURNETT, JR., ESQUIRE**  
21                          Burnett Law Firm  
22                          55 Waugh Drive  
23                          Houston, TX 77007

24                          **ON BEHALF OF DEFENDANTS:**

25                          **MICHAEL BONASSO, ESQUIRE (Liaison counsel)**  
26                          Flaherty, Sensabaugh & Bonasso  
27                          P.O. Box 3843  
28                          Charleston, WV 25338-3843

29                          **DAVID B. THOMAS, ESQUIRE (Liaison counsel)**  
30                          Thomas, Combs & Spann, PLLC  
31                          P.O. Box 3824  
32                          Charleston, WV 25338

33                          **ROBERT T. ADAMS, ESQUIRE (Boston Scientific)**  
34                          Shook, Hardy & Bacon  
35                          2555 Grand Boulevard  
36                          Kansas City, MO 64108

1                   A-P-P-E-A-R-A-N-C-E-S  
2                   (Lead Counsel Only)

3                   **LANA K. VARNEY, ESQUIRE (Coloplast)**  
4                   Fulbright & Jaworski  
5                   98 San Jacinto Boulevard, Suite 1100  
6                   Austin, TX 78701

7                   \* \* \* \*

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1 P-R-O-C-E-E-D-I-N-G-S

2 JUDGE GOODWIN: Good morning.

3 RESPONSE: Morning.

4 JUDGE GOODWIN: Welcome back to Charleston. It's  
5 nice to see all of you today.

6 This is the most bright-eyed, bushy-tailed group I have  
7 ever seen on a morning after a night before in Charleston.  
8 You all must have been working last night.

9 I don't know how much anybody's going to be wanting to  
10 talk, but if you do, be sure to speak into the microphone so  
11 my court reporter can pick it up.

12 I have bad news. I'm losing my court reporter. She's  
13 moving back to Dayton, Ohio. She's probably one of the best  
14 court reporter's in the country, and she's going to be hard  
15 to replace, so if you know of any court reporters that want  
16 to move to beautiful downtown Charleston, have them apply  
17 soon.

18 We have a brief agenda today.

19 Let me first say I'm very satisfied with the hard work  
20 and progress that's been made. I've said that before, but  
21 lots of times I didn't mean it. This time I actually mean  
22 it. We've been tasked with the difficult and sometimes  
23 overwhelming task of fairly and judiciously addressing  
24 around 100,000 cases. We're down to 70,000 pending on the  
25 document, and actually, I know, as you do, that we are down

1       much further than that. We just don't have them off the  
2 docket yet. I'll talk about that in a minute.

3           I want to stress to all the parties in the meetings --  
4 or all the parties here today, as I have in the meetings  
5 I've conducted this morning and yesterday the importance of  
6 submitting the inactive docket orders in accurate form. I  
7 use AMS as an example because they have otherwise been  
8 exemplary. They have actually sent me motions to put a case  
9 on the inactive docket order where the case had been  
10 dismissed with prejudice already, which means that a  
11 paralegal wasn't careful enough. And they will pay when  
12 Dorian gets back, I'm certain.

13           Right now, we've been doing those motions by simply  
14 filing a motion and listing the cases and the names and a  
15 number. Within two weeks we are going to start doing them  
16 case by case, individually, so if you want to get in on the  
17 easy way, make sure it's accurate and get it in in the next  
18 couple weeks. After that, we're going to do them  
19 individually because that way they go in the right file,  
20 they are there, I know where they are when the dismissal  
21 order comes in, and they are easier for us to check.

22           Now, you have access to CM/ECF, so you can check  
23 everything that I can check.

24           The truth of the matter is our paralegal, MaryAnne,  
25 didn't tell me until very recently all of the troubles that

1       she was having with this, or I would have done something  
2       about it sooner. But now that you know about it, go back  
3       and tell the people that are in charge of doing that.

4           I know you've got a whole bunch coming in, Mr. Clark.  
5       Whoever's handling that for you, tell them to be very  
6       careful.

7           MR. CLARK: I'll introduce myself to them, Your  
8       Honor.

9           JUDGE GOODWIN: All right. Now, this goes without  
10      saying. I expect -- and it really doesn't apply to anyone  
11      here, but this is the only people I've got to talk to, so  
12      you can spread the word, and we do have a record. I expect  
13      people to comply with the Court orders in a timely fashion,  
14      and I will -- Kate wrote in the script, said I "may" impose  
15      sanctions. I've changed that to "will" impose sanctions to  
16      people who don't follow the Court orders, and those are the  
17      ones that have recently required the production of medical  
18      information in certain of the MDLs with more to follow.

19           When the parties sit down to negotiate, at this point  
20      it's simply unacceptable for a plaintiff, or a plaintiff's  
21      lawyer, rather, not to have and for the defendant not to  
22      have the supporting medical information necessary to settle  
23      the case. We are just too far down the road for that to  
24      occur anymore.

25           I don't -- I don't mean this in any negative way, but

1       there will be no further delays in the entry of scheduling  
2       orders for cases, for waves, tsunamis, whatever they might  
3       be. As you all know, these MDLs cannot and should not go on  
4       indefinitely. I have a good feel for all of them now, and I  
5       have a good feeling about all of them now, but I don't want  
6       you to lie down. If the parties choose not to work  
7       expeditiously towards reasonable resolution, there will be  
8       very many opportunities to litigate very soon.

9           I want to thank Judge Eifert for joining us this  
10       morning. I asked her before we came if she had anything to  
11       say, and she said she didn't think so, but I'll ask her  
12       again.

13           JUDGE EIFERT: No, I don't.

14           JUDGE GOODWIN: She has always, as you know, been  
15       available to you; and unlike I, who I'm often in error but  
16       never in doubt, she is never in doubt but she's always  
17       right. So if you need to call her on a discovery dispute,  
18       think twice.

19           As I tell every year's law clerks and every new group  
20       of lawyers that come in, just follow the rules. It's not  
21       really that hard.

22           The time for thoughtful reflection has passed. The  
23       time for action is right now. Everyone in these cases  
24       should be fully advised as to all of the important aspects  
25       of this litigation. Let's put it in a box and wrap it up.

1           I want to thank Judge Eifert for joining us.

2           Are there any lawyers here who would like to say  
3 anything?

4           Yes, sir, Mr. Gerrard for the plaintiffs.

5           MR. GERRARD: From the plaintiffs' side, Your  
6 Honor, but I will say that on behalf of all the plaintiffs,  
7 we appreciate the diligence and the work of the Court.

8           JUDGE GOODWIN: Well, it doesn't come naturally to  
9 me, but I appreciate it. I appreciate the compliment.

10          MR. GERRARD: With an admonition of the bailiff to  
11 be silent or go to jail, I won't comment further, Your  
12 Honor.

13          JUDGE GOODWIN: All right. Well, thanks, all of  
14 you, for coming. As I mentioned yesterday, and as I have  
15 nearly every time, the Charleston Convention and Visitors  
16 Bureau also thanks you for your contributions to the  
17 economy.

18          Mr. Clark gets the Golden Award, as he usually does on  
19 most of these trips. He, according to rumor, spends more  
20 money in town than any other lawyer. That's just what I've  
21 heard.

22          It's been fun. It's been fun getting to know all of  
23 you. It's been fun dealing with a group of real  
24 professionals who know what they are doing. This massive  
25 mess could not have moved to the point that it has without

1       knowledgeable and diligent counsel. You all have stepped up  
2 and have done it.

3           Now, I know there are a lot of cases still on the  
4 docket. I looked at Johnson & Johnson; they've still got a  
5 lot of cases. But I know -- it's a secret -- but I know  
6 that they are making great progress. Okay?

7           One of the things I found most amusing about this  
8 entire process is how unsecret the secrets are. It doesn't  
9 take 48 hours for most stuff to leak out and somebody say,  
10 "Did you hear?"

11          And Kate, all of you must trust her, because she hears  
12 everything. I don't. She even reads the blogs -- don't  
13 tell anybody.

14          I've read a couple back in the day that I had the lady  
15 that did one of the blogs in court at a trial. That's a  
16 brand new problem for trial lawyers and judges, that  
17 misinformation and sometimes accurate information but the  
18 instantaneous interpretation of what went on in court, which  
19 we can't respond to. Very, very different problem.

20          I'm not going to keep going on. Have a safe travel  
21 home, and I look forward to seeing all of you at least once  
22 again. We'll have it -- when this is over, we're going to  
23 have a big party. Mr. Mostyn, who had to leave to go to  
24 Scotland, who says on business but he's taking his family  
25 with him, doesn't know it yet, but I think he's willing to

1 pay for that final party.

2 (Proceedings concluded at 10:20 a.m.)

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1                   CERTIFICATE OF REPORTER  
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3                   I, Mary A. Schweinhagen, Federal Official Realtime  
4 Court Reporter, in and for the United States District Court  
5 for the Southern District of West Virginia, do hereby  
6 certify that pursuant to Section 753, Title 28, United  
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9 in the above-entitled matter and that the transcript page  
10 format is in conformance with the regulations of the  
11 Judicial Conference of the United States.

12

13                   s/Mary A. Schweinhagen

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----- September 21, 2016

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MARY A. SCHWEINHAGEN, RDR, CRR  
FEDERAL OFFICIAL COURT REPORTER

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